

# Part 537 - Service Contracting

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## **Subpart 537.1 - Service Contracts—General**

### **537.101 Definitions.**

“Contracts for building services” means contracts for services relating to the operation and maintenance of a building (e.g., janitorial, window washing, snow removal, trash removal, lawn and grounds care), inspection, maintenance, repair or replacement of building systems or equipment (e.g., elevators, air-conditioning, heating systems, and protection or guard service).

### **537.102-70 Application of performance-based acquisition (PBA) policy for leases and leasehold interests in real property.**

GSA contracting activities are not required to use PBA methods for leases and leasehold interests in real property. However, contracting activities are not precluded from using PBA methods when contracting for leases or leasehold interests in real property if using PBA best meets the Government’s needs.

### **537.106 Funding and term of service contracts.**

[517.101](#) identifies GSA-specific statutory authority for multiyear contracts for certain services.

## **537.110 Solicitation provisions and contract clauses.**

### Contracts for Building Services

The following provision and clauses apply to contracts for building services:

(a) If the contract is expected to exceed the simplified acquisition threshold and it is not initiated with AbilityOne under the Javits-Wagner-O'Day Act insert [552.237-71](#), Qualifications of Employees, in the solicitation and contract. If needed, use supplemental provisions or clauses to describe specific requirements for employees performing work on the contract.

(b) Insert [552.237-72](#), Prohibition Regarding "Quasi-Military Armed Forces," in solicitations and contracts for guard service.

## **Subpart 537.2 - Advisory and Assistance Services**

### **537.201 Definitions.**

As used in this subpart—

*Evaluation or analysis of a proposal* means proposal evaluation as described in FAR 15.305. It includes: Cost or price evaluation using cost or price analysis, as defined in FAR 15.404.

*Proposal* means a proposal submitted for an initial contract award. (See FAR 37.203(d)). It does not include proposals submitted after contract award, such as value engineering proposals, proposals related to contract modifications, claims, or other contract administration actions.

*Readily available* means that employees with the requisite training and capability are employed by the agency, capable of handling additional work relating to other duties as assigned by management, and that the travel and other costs associated with using covered personnel does not exceed the projected cost of a contract for evaluation and analysis services.

*Requisite training and capability* means training and capability necessary to successfully perform the task or contract at issue in the time and in the manner required. It may include relevant experience, recent performance of work of similar size and scope, specific training and other factors that the contracting officer determines are necessary to the successful performance of the task or contract at issue.

### **537.204 Guidelines for determining availability of personnel.**

(a) *Authority*. The contracting officer is authorized to make the determinations required by FAR 37.204 unless the HCA designates another agency official.

(b) *Policy*. The contracting officer, or the HCA's designee, must make the determination whether GSA personnel with the requisite training and capabilities are readily available to perform the evaluation or analysis before issuing a solicitation which includes evaluation and analysis services (see FAR 37.205).

(c) *Identifying qualified personnel*. The contracting officer, or the HCA's designee, must base the determination on information received in response to a survey conducted as follows:

- (1) If the estimated cost of evaluation and analysis services to be obtained under a contract or

order is less than the micropurchase threshold, the administrative cost and time associated with conducting the search and other costs, such as travel, will likely exceed the cost of providing the services under the contract or order. In this case, the survey need only include the appropriate Assistant Commissioner, Assistant Regional Administrator, or designee within the contracting organization at the location where the services are to be performed.

(2) If the estimated cost of the evaluation and analysis services to be obtained under a contract or order is expected to exceed the micropurchase threshold, the survey must include all of the following:

(i) The appropriate Assistant Commissioner, Assistant Regional Administrator, or designee at the location where the services are to be performed, and managers within other GSA Regions and Central Office of the contracting organization.

(ii) Other Federal agencies that are reasonably expected to have covered personnel with the requisite training and capability at the location where the services are to be performed.

(d) *Decisions on availability of personnel.* The contracting officer, or the HCA's designee, should request that decisions on availability be made by a management official at a level higher than the employee's immediate supervisor.

(e) *Documentation.* The determination required by FAR 37.204 may be incorporated in the acquisition plan or made a part of another document prepared in the normal course of a procurement action. The file should, at a minimum, describe:

(1) *Who was surveyed and a summary of the responses received;*

(2) *The circumstances requiring the use of outside evaluators;*

(3) *Actions GSA will take to avoid organizational or other conflicts of interest under FAR 9.5;*

and

(4) *The competitive relationship between prospective offerors, including proposed subcontractors, and the prospective evaluator(s).*

(f) *Indefinite delivery contracts for evaluation and analysis services.* You may issue an indefinite delivery contract for evaluation and analysis services if there is a reasonable expectation that there will be occasions when personnel with the requisite training and capabilities will not be readily available to perform the evaluation and analysis services covered by the contract.

(1) Before issuing a solicitation for an indefinite delivery contract, the appropriate agency official should first assess the ability of the Federal Supply Schedule Program to support the need and consider manpower and workload projections over the proposed contract period. This should help avoid unnecessarily incurring the cost of soliciting offers and awarding a contract. Document the acquisition file accordingly.

(2) The appropriate agency official should establish procedures for making determinations regarding particular evaluations before orders are placed under the contract.

## **537.270 Contract clause.**

Insert the clause at [552.237-73](#), Restriction on Disclosure of Information, in solicitations and contracts for proposal evaluation and analysis services.

# **Subpart 537.6 - Performance-based Acquisition**

## **537.601 General.**

Contracting Officers are encouraged to use the Steps to Performance-Based Acquisition (SPBA) available at <https://pba.app.cloud.gov/app/#/pba>.